

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of RICKY THAYER, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SAMANTHA GIBSON and JOSEPH THAYER,  
JR.,

Respondents-Appellants.

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UNPUBLISHED  
December 2, 2003

No. 249410  
Ionia Circuit Court  
Family Division  
LC No. 01-000044-NA

Before: Murray, P.J., and Gage and Kelly, JJ.

PER CURIAM.

Respondents appeal by delayed leave granted the trial court order terminating their parental rights to the minor child under MCL 712A.19b(3)(g), (j), and (l). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I), now MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The same trial court terminated respondent mother's parental rights to two other children shortly after this child's birth. Respondents had been given parent agency agreements and referrals to services as part of the prior proceeding, but still had not made substantial progress on those agreements in the almost two years that passed until the termination hearing in this case.

This minor child was removed from respondents' care at birth when both he and respondent mother tested positive for marijuana. His child protective proceeding is considered a continuation of his siblings' prior proceeding. *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482 (1973). Respondents had significant substance abuse histories, yet refused to attend substance abuse counseling. They lived in ten different residences during the pendency of the instant case, all unsuitable except the last residence, obtained a month prior to termination. Respondent father had maintained part-time employment for only six months, and respondent mother had not remained employed at one place for any significant length of time. For nearly two years, respondent father refused to comply with any services, and respondent mother complied with only those she felt she needed, when she needed them. Failure to comply with a court-ordered treatment plan is one indication of neglect. *In re Trejo*, 462 Mich 341, 346 n 3;

612 NW2d 407 (2000). The evidence supported the trial court's finding that respondents had failed to provide proper care or custody for Ricky, that there was no expectation that they would do so within a reasonable time, and that Ricky was likely to be harmed if returned to respondents. The prior termination order provided evidence of subsection 19b(3)(l) with respect to respondent mother, but respondent father had not been a respondent in that proceeding.

Further, the trial court did not err in determining that termination of respondents' parental rights was not contrary to Ricky's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 356-357. The evidence showed that Ricky was removed from respondents' care at birth, that he resided in foster care with his siblings, and that returning to the unstable environment offered by respondent's would not be in his best interest.

Although on appeal respondents have provided evidence that that they have maintained the same residence since the time of termination, appeals to this Court are heard on the original record. MCR 7.210(A). The trial court relied on the evidence presented at the time and did not err in terminating respondents' parental rights to the minor child.

Affirmed.

/s/ Christopher M. Murray  
/s/ Hilda R. Gage  
/s/ Kirsten Frank Kelly